

PARCEL PANEL REPORT

PARCEL DATA

Property Owner: Darshan Singh and Kulwinder Kaur (Owner)

Parcel Location: East side of the intersection of Interstate-5 (I-5) northbound exit ramp with French Camp Road at 5777 French Camp Road, Stockton
Assessor Parcel Number (APN): 193-020-37

Present Use: Commercial - Auto/Truck Refueling Station/Mini Market/Restaurant

Zoning: General Commercial (CG)

Area of Property: 2.56 acres

Area Required: Parcel: 15992-1 - Access rights along approximately ~~371~~ **374** feet along the west property line, **approximately 37 feet along the south boundary**, and approximately 110 feet along the north boundary

PARCEL DESCRIPTION

The subject property is located on the south side of French Camp Road, just east of the intersection with I-5 in the city of Stockton, near the community of French Camp, in San Joaquin County. The address is 5777 French Camp Road, French Camp, and is identified as APN 193-020-37. The property has an area of 2.56 acres and is irregular in shape. The parcel has approximately 371 feet of frontage on its northeasterly side along French Camp Road. Access is from French Camp Road via two driveways. The westernmost driveway is actually on the adjoining property and is used under a temporary agreement with the owner.

The parcel is zoned for commercial use and is improved with a Union 76/Pacific Pride auto/truck refueling station/card lock with a convenience store and Togo's deli restaurant. Autos can refuel from six double sided pumps in two rows (three per row) in front of the convenience store. Trucks and some autos refuel to the rear of the convenience store in a Pacific Pride Card Lock. There is limited parking on one side of the store and along the boundaries of the site. There are ten parking stalls along the east boundary of the site and a large onsite advertising sign in the south portion of the site and a smaller onsite advertising sign in the northwest portion of the site. The site has minimal landscaping along the boundaries.

The proposed project requires the acquisition of the permanent access rights of approximately 374 feet along the west property line, **approximately 37 feet along the south boundary**, and approximately 110 feet along the north boundary of the property line adjacent to French Camp Road on the subject property. The acquisition of land or any improvements will not be required. All of the access rights being acquired are within the relinquished area described in a Notice of Declaration (NOD) recorded on September 13, 1995 that essentially precludes use of any driveways within 200 feet of a future off-ramp.

The proposed acquisition includes the following areas:

- Parcel 15992-1 is the proposed acquisition of abutter's rights of access along the entire west and a portion of the north boundaries of the parcel.

NEED FOR SUBJECT PROPERTY

The abutter's rights of access are needed from the subject parcel to accommodate the proposed interchange at I-5 and French Camp Road. The property will be adjacent to the northbound off ramp to French Camp Road and a retaining wall will be constructed adjacent to the property line to reduce permanent impacts to the subject property.

The impact to this parcel cannot be avoided. The interchange has been designed to current standards and to eliminate all impacts to the parcel would require the interchange design to incorporate substandard geometric features.

RESOLUTION OF NECESSITY REVIEW PANEL REPORT

The Condemnation Review Panel (Panel) met in Stockton on August 11, 2009. The Panel members included Donald Grebe, Panel Chair, California Department of Transportation (Department) Headquarters (HQ) Division of Right of Way and Land Surveys; Alice Ramsey, Department Sacramento Legal Division; Linda Fong, Department HQ's Division of Design; and Deborah Gebers, Department HQ's Division of Right of Way and Land Surveys, Secretary to the Panel. Representing the Owner was Darshan Singh, legal counsel, Stephen Belzer, and Ed Gillum.

This report summarizes the findings of the Panel with regard to the four criteria required for a Resolution of Necessity (Resolution) and makes a recommendation to the Department's Chief Engineer. The Owner is contesting the adoption of the Resolution based on Code of Civil Procedure 1245.230, specifically that the project is not planned and located in a manner that is the most compatible with the greatest public good and least private injury, and that the property sought to be condemned is not necessary for the project. The property owner is also challenging that an offer of just compensation, according to Government Code Section 7267.2, has not been made to the owners of record. The Owner has also stated that elimination of one of two driveways will impact the business to such a degree that it will no longer be able to service trucks and will therefore go out of business. The Owner has requested a full acquisition.

The following is a description of the concerns expressed by the Owner, followed by the Department's response:

Owner:

The offer required by Government Code Section 7267.2 did not meet statutory requirements and was therefore not made as prescribed, in that no analysis was included to indicate the basis for the conclusion that only nominal damages are due.

Department:

Due to the disagreement in the interpretation of the NOD between the property owner and the Department, we are at an impasse in negotiations until the Department can move forward with the filing of a motion for a special issue determination. The court will conduct a special issue trial or hearing and issue a ruling interpreting the provisions and terms of the NOD. The Department believes that the court will adopt the Department's interpretation and that the property owner has, at most, only temporary access rights to the property. Accordingly, the Department's appraisal upon which the Department made its Government Code Section 7267.2 offer was based on the valuation of temporary access rights.

Owner:

The project design does not allow for the I-5 northbound off-ramp to align with Val Dervin Parkway as specified in the NOD. Therefore, left turn movements in and out of the property must be provided.

Department:

In 1995 the NOD was made pursuant to conditions of San Joaquin County's site approval application to split a larger parcel into three separate, smaller parcels, one of which became the subject property. When the Owner purchased the property in 2006 this NOD was in effect and had been recorded. It stated in part that permanent driveways (for any of the three newly created parcels) shall be constructed a minimum of 200 feet from the future northbound off-ramp and shall be restricted to right-turn only traffic movements (right in and right out). The NOD further states that if the I-5 northbound off-ramp is not relocated easterly to align with Val Dervin Parkway, the intersection shall be signalized to provide left-turn traffic movements.

Although the Owner contends the off-ramp does not technically align, i.e. the centerlines do not exactly match, with Val Dervin Parkway, the northbound off-ramp does in fact generally align with Val Dervin Parkway. Therefore, this specific language of the NOD has been followed, as well as its overriding intent, which was to restrict traffic movement with construction of the future northbound off-ramp.

Owner:

Is vehicle crossing of the chevron on eastbound French Camp Road permissible? Can the chevron be broken to facilitate movement from the property driveway to eastbound left-turn pocket?

Department:

In response to the Owners' request, the current design shows the chevron directly adjacent to the raised median. Therefore, it is no longer necessary to consider allowing a break in the chevron at this location as traffic movement to the eastbound left-turn pocket from the subject property will not be prohibited by the chevron.

Owner:

The Department should consider allowing a U-turn from eastbound left-turn pocket at the intersection of French Camp Road and Frank West Circle.

Department:

The current design permits U-turns at the proposed signalized intersection of French Camp Road and Frank West Circle.

Owner:

We would propose allowing westbound traffic on French Camp Road to make a U-turn eastbound at intersection of French Camp Road and the northbound off-ramp. Customers that work and live in the area will not continue to patronize the business because they will not be able to access the property if they are traveling west on French Camp Road without traveling west of the I-5 interchange and making a U-turn. In the after condition these customers will go elsewhere for lunch and gas.

Department:

A U-turn from a through lane is not considered a typical or safe movement. Consequently a turn lane from which vehicles travelling westbound (WB) on French Camp Road could make a U-turn to eastbound (EB) French Camp Road at the intersection with the I-5 northbound (NB) off-ramp was investigated.

A turn pocket for U-turns on westbound French Camp Road at the intersection with the northbound I-5 off-ramp is not feasible. Most turn pockets on the median side of the roadway allow left-turns, or left-turns and U-turns. A turn pocket that allows U-turns only is not conventional, would require special signing, and at this location could result in driver confusion and wrong-way movements onto the northbound off-ramp.

Owner:

Currently trucks and cars enter the property, fuel and exit the property. There is also auto and truck parking on the property which allows the drivers to take a break, use the rest room and eat. In the after condition, the remainder will not allow the turning radius trucks need to maneuver on the site. The truck parking further impedes truck circulation in the after condition. There are also problems for the on-site circulation for fuel delivery in the after condition

The mixed auto and truck traffic creates additional problems with the safety of the vehicles and the circulation on the parcel. The replacement of the westerly driveway is critical for the viability of the business to continue to operate, the store and service station will not be able to operate as a stand-alone site without the truck business.

Department:

The Department performed studies to confirm that there is sufficient area for trucks to deliver fuel. In addition, there will also be sufficient truck turning radius for ingress/egress from the proposed driveway in the after condition. Any other impacts to the business can be addressed through filing a loss in business goodwill claim.

Owner:

Truck "trailblazer" signs directing truck traffic turning right from subject property onto South French Camp Road, southeast to South El Dorado Street, then west on West Mathews Road, to Mathews Road northbound on-ramp should be included in the project plans.

Department:

Truck route trailblazer signs to direct truck traffic turning right from the property to I-5 will be placed in conjunction with the project. However, research indicated the right-turn radius from El Dorado Street to Mathews Road will not accommodate trucks. Therefore, the signs will be placed to direct northbound on-ramp at Charter Way, approximately 4.2 miles on local streets. Additionally, signs will be placed to direct southbound truck traffic south on El Dorado Street to the I-5 southbound on-ramp, approximately 1.2 miles on local streets.

Owner:

The underground fuel tanks on the west-side of the subject property may be impacted by the proposed project.

Department:

Due to the elimination of the fee acquisition this concern has been eliminated.

An offer for the full amount of the Department's appraisal has been made to the Owner in compliance with Government Code Section 7267.2.

DEPARTMENT'S CONTACTS

The following contacts have been made with the Owner:

Type of Contact	Number of Contacts
Mailing of information	7
E-Mail of information	4
Telephone contacts	8
Personal / meeting contacts	4

STATUTORY OFFER TO PURCHASE

The Department has appraised the subject property and offered the full amount of the appraisal to the owners of record as required by Government Code Section 7267.2. The Owners has been notified that issues related to compensation are outside the purview of the California Transportation Commission (Commission).

PANEL RECOMMENDATION

The Panel concludes that the Department's project complies with Section 1245.230 of the Code of Civil Procedure in that:

- The public interest and necessity require the proposed project.
- The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.
- The property rights to be condemned are necessary for the proposed project.
- An offer to purchase in compliance with Government Code Section 7267.2 has been made to the owners of record.

The Panel recommends submitting a Resolution of Necessity to the Commission.

DONALD E. GREBE
Chief
Office of Project Delivery
Division of Right of Way and Land Surveys
Panel Chair

I concur with the Panel's recommendation:

RICHARD D. LAND
Chief Engineer

**PERSONS ATTENDING CONDEMNATION PANEL REVIEW MEETING
HEARING ON AUGUST 11, 2009**

Donald Grebe, HQ's Division of Right of Way and Land Surveys, Panel Chair
Alice Ramsey, Sacramento Legal Office Attorney, Panel Member
Linda Fong, HQ's Division of Design, Panel Member
Deborah Gebers, HQ's Division of Right of Way and Land Surveys, Panel Secretary

Darshan Singh, Property Owner
Steven Belzer, Attorney for the owner of the Property
Ed Gillum, Representative for property owner

Tony Tavares, Interim District 10 Director
Carl Haack, HDR
Try Khou, HDR Design
Scott Guidi, District 10 Project Management
Michael Rodrigues, Central Region Right of Way